

REMARKS

Status of the Claims

Claim 1 is presently amended. Claim 6 is canceled; claims 2-4 and 7-8 were previously canceled.

Applicants have amended claim 1 to provide "...multiple hybridization probes, wherein said multiple hybridization probes comprise SEQ ID NOS: 3, 4, 5, 8, 9, 10, 11, 12 and 13" . Support for these amendments can be found throughout the specification and in the Examples, for example in the table provided on page 20 of the specification as filed. No new matter is added by this amendment.

With entry of this amendment, claims 1 and 5 are currently pending and under consideration.

Claim Rejections – 35 USC §103

The Examiner has maintained the previous rejections of claims 1 and 5-6 under 35 U.S.C. 103(a) as being unpatentable over Cockerill et al. in view of Tyrell et al. (Action page 4)

Solely to facilitate prosecution and without acquiescence in the rejections, Applicants have amended claim 1 to provide multiple hybridization probes, wherein said multiple hybridization probes comprise SEQ ID NOS: 3, 4, 5, 8, 9, 10, 11, 12 and 13.

Applicants assert that Cockerill does not teach the use of multiple hybridization probes comprising SEQ ID NOS: 3, 4, 5, 8, 9, 10, 11, 12 and 13. Tyrell does not provide teachings or suggestion on the use of multiple hybridization probes comprising SEQ ID NOS: 3, 4, 5, 8, 9, 10, 11, 12 and 13. Therefore, the combination of Cockerill and Tyrell does not provide all of the claim limitations as provided in the instant application. For the reasons stated above, Applicants respectfully assert that the Examiner has not established a *prima facie* case of obviousness and request withdrawal of the 103 rejections of claims 1 and 5.

CONCLUSION


Applicants respectfully request entry of the present RCE, amendments and remarks. In view of the above, Applicants believe all claims now pending in this Application are in condition for allowance. If the Examiner believes that a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-730-8566.

Applicants respectfully request a 1-month extension of time to respond to the Office Action mailed May 20, 2009. The response date was August 20, 2009; with the granting of this request, the response time is re-set to September 21, 2009 (September 20 being a Sunday). The commissioner is hereby authorized to charge the amount of \$120, the fee due under 37 CFR §1.17(a)(1) and also to charge the amount of \$810, the fee pursuant to 37CFR §1.114, to Deposit Account No. 50-0812. Please grant any additional extensions of time that may be required to enter this response and charge any additional fees or credit any overpayments to Deposit Account No. 50-0812.

Please direct all future correspondences to: Customer No. 22829.

Respectfully submitted,

Date: September 21, 2009

By: 
Rhea C. Nersesian
Reg No. 55,488

Correspondence Address
Roche Molecular Systems, Inc.
4300 Hacienda Drive
Pleasanton, CA 94588
Tel: 925-730-8000
Fax: 925-225-1128